IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4451 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE H.K.RATHOD

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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TAKHUBEN VIRJIBHAI - Petitioner(s)

Versus

KASTURIBEN JAYCHAND VORA - Respondent(s)

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Appearance :

MR DA SURANI for Petitioner(s) : 1,
MS ARUNA N SHAH for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE H.K.RATHOD

Date : 07/02/2006

ORAL JUDGMENT

1. Heard learned Advocate, Mr.D.A.Surani, appearing on behalf of petitioner and learned Advocate, Ms.A.N.Shah, appearing on behalf of respondent.

2. In the present petition, the petitioner - workman has challenged the award passed by Labour Court, Surendranagar in Reference (LCS) No.249 of 1990 dated 2nd November,2001, wherein, Reference has been rejected by Labour Court, Surendranagar.

3. The dispute raised by the workman against her termination before the Labour Court, Surendranagar. The contention was raised by the respondent that petitioner was working as a part-time and respondent is not an “industry” within the meaning of Section 2(j) of the I.D.Act,1947. The Labour Court has examined these two questions relying upon the decision of the Hon'ble Supreme Court and come to the conclusion that part-time workman is not a workman within the meaning of Section 2(s) of the I.D.Act,1947. The Labour Court has also examined the second contention on the basis of the evidence led before the Labour Court and also considering the documentary evidence produced by both the respective parties. Ultimately, Labour Court has come to conclusion that Trust, who was related to the religious, social and philosophical services and boarding, wherein, no charge has been taken by the Trust from the students, who are staying there. The Labour Court has also considered the decision of the Hon'ble Supreme Court in case of

Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and others, reported in AIR 1978 SC 548. Three questions have been examined by the Labour Court that at the time when the service was terminated by the respondent – Trust, the legal dues, which are available to the petitioner under law, was sent to the petitioner and same was accepted by the workman vide Exh.7 in her cross-examination. Therefore, Labour Court has considered all these three contentions in favour of respondent and ultimately, come to the conclusion that Reference is required to be rejected as workman has already received the retrenchment compensation, notice pay and other legal dues from the respondent.

4. I have considered the submissions made by both the learned Advocates. I have also perused the award passed by the Labour Court and considering the reasonings given by the Labour Court as well as the documents which were produced by the respective parties, according to my opinion, once the workman has accepted the retrenchment compensation, notice pay and other legal dues, then, such termination cannot be considered to be illegal. Therefore, Labour Court has rightly decided the matter and adjudicated according to law. For that, Labour Court has not committed any error apparently on the face of

record which require interference by this Court under Article 227 of the Constitution of India. Hence, there is no substance in the present petition. Present petition is dismissed with no order as to costs. Rule is discharged.

(H.K.RATHOD,J.)

(vipul)